

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In the Matter of

Administration of the  
North American Numbering Plan  
Carrier Identification Codes ("CICs")

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) CC Docket No. 92-237

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**REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION**

MCI Telecommunications Corporation ("MCI"), by its attorneys, respectfully submits these reply comments<sup>1</sup> in connection with the Commission's Further Notice<sup>2</sup> regarding Carrier Identification Codes' ("CICs") policies and rules appropriate in an environment of increased CIC availability as a result of the expansion of CICs to four digits and increasing competition.

**INTRODUCTION & SUMMARY**

MCI, like nearly all of the commenters, supports the recommendations contained in the North American Numbering Council ("NANC") CIC Report.<sup>3</sup> The report appropriately reflects that the implementation of four-digit CICs greatly increases the availability of this numbering resource, making policies and rules developed when CIC exhaustion loomed over the industry largely inappropriate.<sup>4</sup> Furthermore, the NANC recommendations represent common ground reached by a broad and diverse cross section of industry representatives who, at the request of the

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<sup>1</sup> Comments filed by MCI on March 6, 1998 were inadvertently identified as "reply" comments, and should have been entitled "Comments of MCI Telecommunications Corporation."

<sup>2</sup> *Administration of the North American Numbering Plan, Carrier Identification Codes, Further Notice of Proposed Rulemaking and Order*, FCC 97-364, CC Docket No. 92-237 (rel. Oct. 9, 1997) ("Further Notice"). By Order released November 21, 1997, the Chief, Network Services Division extended the deadline for filing comments on the Further Notice. Order, DA 97-2439 (rel. Nov. 21, 1997).

<sup>3</sup> *Report and Recommendations of the CIC Ad Hoc Working Group to the North American Numbering Council Regarding Use and Assignment of Carrier Identification Codes*, Feb. 18, 1998 ("NANC Report").

<sup>4</sup> MCI Comments at 2.

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Commission, worked diligently through an open and fair process to forge a workable CIC administration plan.

In particular, MCI urges the Commission to ignore the pleas of only a very few commenters whose views differ from the NANC recommendations on the definition of “entity” and the treatment of CICs belonging to merged companies. The Commission should reject their efforts to “game” the number policy process and impose competitive harm on carriers that have grown through mergers. Failure to adopt the NANC recommendations would needlessly prolong the resolution of the long-standing CIC administration issues, and lead to additional debate and contention while delaying the growth of competition. The Commission should also confirm that CICs be limited to uses associated with switched access services as originally intended, unless industry experience suggests otherwise in the future.

## DISCUSSION

### **I. THE COMMISSION SHOULD ADOPT THE NANC’S RECOMMENDATION**

The NANC recommendations provide a workable and effective plan for the future administration of CICs. The recommendations appropriately reflect that CICs are readily available as a result of their expansion to four digits and that the competitive evolution of the telecommunications industry requires changes in CIC administration. Failure to implement changes consistent with the NANC recommendations imperils the growth of competitive services associated with switched access services that rely on CICs and will prolong the burdens imposed by conservation. The Commission should act swiftly to adopt the NANC recommendations in their entirety. It should not attempt to unnecessarily tinker with these recommendations and risk upsetting the careful balance achieved by the whole set of recommendations.

The NANC recommendations represent a nearly unanimous industry view that was developed in an open and fair environment. Unlike the suggestion by Ameritech that the Industry Numbering Committee (“INC”) re-examine the CIC issues,<sup>5</sup> adopting these recommendations promptly is a sensible approach to address the current CIC administration challenges. No other party supports Ameritech’s wayward view that the issues should be referred once more to the INC for “full analysis and consideration.”<sup>6</sup> Furthermore, Ameritech “urges the Commission to exercise caution in its use of Ad Hoc groups in the future” because “such groups may not represent the entire industry or utilize established consensus procedures.”<sup>7</sup> Ameritech appears to imply that the NANC process to develop its recommendations were not fair and open. Nothing could be farther from the truth.

The NANC recommendations are the result of full analysis and consideration developed through an open, fair industry process as required by the Federal Advisory Committee Act (“FACA”). There is simply no reason why CIC issues should be referred back to the INC. Indeed, the NANC recommendations are a workable resolution to long-standing CIC issues that had not previously been solved by the INC.

Referring the CIC issues to the INC accordingly makes no sense. The INC has not been able to previously deal with these issues effectively, and INC issue resolution is costly, slow and uncertain. The NANC’s open process, objective recommendations and input of all industry segments stands in stark contrast to the typical INC issue resolution process – too often dominated by large incumbent LECs. Moreover, to the extent that INC representatives, many of which are direct reports to NANC members, are NANC members or participated in the Ad Hoc

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<sup>5</sup> Ameritech Comments at 7.

<sup>6</sup> *Id.* at 2 fn. 1.

<sup>7</sup> *Id.* at 4.

Working Group have technical knowledge that is valuable to the process, the NANC Report already reflects the input of the INC. And, as a policy matter, having a Commission sponsored advisory group exercise supervisory oversight of numbering activities is far preferable to permitting these competitively important issues to be decided in other industry forums. Accordingly, the NANC process, which has served the Commission well, is a better approach to address CIC and other number policy issues.

The Commission should endorse the NANC's findings and have those recommendations serve as the foundation for CIC administration guidelines. When the FCC adopts the NANC recommendation, it should also have the NANC retain oversight over these guidelines, including any future changes to them, and have the NANPA assume the role of maintenance agent. Such an approach takes the telecommunications industry beyond the current gridlock, and neither undermines industry participants nor limits industry flexibility to make future modifications to number administration guidelines to meet changing conditions. In fact, such an approach promotes open and fair industry forums, highlights the important and valuable role of the NANC, and encourages industry participants to act promptly to resolve industry issues so that the Commission need not intervene.

MCI shares the views of the vast majority of the commenters that the process to develop the NANC recommendations was open and fair characterized by a spirit of cooperation and diligent effort. Parties who often have opposing views share this opinion.<sup>8</sup> In addition, while parties including MCI may not be totally pleased with everything in the NANC report, they

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<sup>8</sup> See, e.g., SBC Comments at 1 ("The NANC Recommendations reflect a broad consensus within the industry achieved through long hours of cooperative discussion."); BellSouth Comments at 3 ("BellSouth agrees that the Working Group's recommendations represent a consensus within industry achieved through cooperative discussion and problem solving."); GTE Comments at 6 ("GTE commends the NANC and this Working Group for the hard work, cooperation and spirit of compromise on the part of the participants.").

recognize that the NANC recommendations represent a workable and balanced plan needed to resolve CIC administration issues.<sup>9</sup> Moreover, the Commission should be commended for its efforts to streamline the resolution of this issue by requesting NANC input. Such an approach is perfectly consistent with the Commission's vision, articulated in the NANPA Order, for number administration in the burgeoning competitive environment.<sup>10</sup> The approach has served the industry well, and should not now be jeopardized and deviated from by abandoning the NANC advisory process.

The Commission should adopt the recommendations in their entirety, as urged by many commenters.<sup>11</sup> With only one exception, Ameritech, all commenting parties urge the Commission to adopt the NANC recommendations in their entirety or to adopt the vast majority of the recommendations.<sup>12</sup> Issues on which some parties differ primarily deal with the treatment of CICs for merged entities and the definition of entity.<sup>13</sup> As discussed below, the Commission should not modify the NANC recommendations to meet the individual needs of particular parties that will have the result of penalizing merged companies or advantaging a particular industry segment, while upsetting the careful balance of the NANC Recommendations.

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<sup>9</sup> See, e.g., US WEST Comments at 2 ("In some circumstances we believe that the recommendations are, perhaps, more conservative than is absolutely required. However, we do not oppose those recommendations in the spirit of consensus decision making.")

<sup>10</sup> *Administration of the North American Numbering Plan, Carrier, Report & Order*, FCC 95-283, CC Docket No. 92-237 (rel. July 13, 1995) at ¶ 1.

<sup>11</sup> See, e.g., MCI Comments at 1; WorldCom Comments at 1; US WEST Comments at 3.

<sup>12</sup> See, e.g., GTE Comments at 6 ("GTE supports the recommendations of the NANC Report in every area with only two qualifications."); BellSouth Comments at 7 (BellSouth expresses its support for the NANC recommendations, while advocating only two modifications to the NANC recommendations). IXC Long Distance, Inc. Comments at 1 (IXC "agrees with many of its [the NANC Report] of conclusions.")

<sup>13</sup> See AT&T Comments at 9 ("AT&T favors the retention of "entity" because of several shortcomings of the proposed one."); SBC Comments at 6 (Requesting special treatment for separate affiliates under the definition of entity.)

## II. THE DEFINITION OF ENTITY SHOULD BE QUANTITATIVE, PRECISE AND WORKABLE

CICs should be administered under a fixed, quantitative test for “entity” that is not subject to manipulation and does not require the Commission to become an arbiter either of corporate affiliation or competitive necessity. As MCI explained in its opening comments, the NANC Recommendations provide such a quantitative test that the Commission should adopt.<sup>14</sup> Adoption of the NANC Recommendation would avoid the need for the Commission to arbitrate ownership and competitive necessity issues that would be required under the *Further Notice* proposals.<sup>15</sup>

Only three parties – AT&T, Winstar and SBC – oppose the NANC Recommendations on the definition of entity. Conceptually, even these parties appear to support the NANC recommendations in that they advocate the use of an explicit ownership percentage to be used as a threshold for determining ownership. AT&T indicates it favors retention of the current definition of entity over the proposed definition provided by the Commission, but alternatively supports a NANC-like definition provided that the threshold ownership level is ten percent.<sup>16</sup> This view is based on the concerns that under the Commission’s entity definition, ownership of a single share of stock would constitute common ownership, and that the Commission’s definition would lead to increased CIC consumption.<sup>17</sup>

The NANC’s recommended definition does not suffer from the first concern, and the second is largely irrelevant in an environment where CICs are readily available. While there may or may not be more CIC assignments under the NANC entity definition than under the existing definition, increased CIC consumption should not be the determining factor in an era where CICs

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<sup>14</sup> MCI Comments at 4-6.

<sup>15</sup> *Id.* at 5-6.

<sup>16</sup> AT&T Comments at 9.

<sup>17</sup> *Id.*

are readily available for switched access service uses. As an alternative, AT&T proposes that if the Commission adopts an “ownership” only definition that a ten percent equity level be used as the ownership threshold.<sup>18</sup> It suggests that such a low threshold is needed to avoid “gamesmanship” to obtain needed CICs.<sup>19</sup>

MCI disagrees for two principal reasons. First, to the extent that gamesmanship exists, it is largely the result of extreme conservation measures that drive parties to resort to “creative” tactics to obtain additional CICs. Once the extreme measures are removed and CICs can once again be reasonably obtained, the need for gamesmanship will be greatly reduced. Second, under AT&T’s definition smaller carriers and start-up service providers would be harmed because if a larger carrier made a relatively minor investment, even though it had no control of the entity, the entity receiving the investment would not be permitted to acquire any CICs if the investing entity had reached the maximum limit on CICs. While Winstar suggests a somewhat higher threshold of 30% ownership,<sup>20</sup> making it somewhat more palatable, the same arguments apply to its proposal, and that proposal, like AT&T’s should be rejected.

SBC supports the NANC recommendation of the definition of entity, but proposes a modification to enable it, and other similarly situated RBOCs, to obtain more CICs than permitted. It believes that its legally required separate affiliates providing wireless and interexchange services are sufficiently distinct that they should be considered separate entities for the purpose of CIC assignments.<sup>21</sup> The Commission should reject SBC’s plea for additional CICs. SBC contends that other companies can offer local, cellular and long distance services on an integrated basis, and can easily and seamlessly coordinate the use of a limited number of CICs. It

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<sup>18</sup> *Id.* at 10.

<sup>19</sup> *Id.*

<sup>20</sup> Winstar Comments at 3.

alleges that required structural separation rules makes it essential for it to keep traffic separate and trackable, and that it is not even clear whether its affiliates could lawfully share CICs.<sup>22</sup>

MCI believes that SBC's position would unfairly favor one segment of the industry – dominant Tier 1 LECs – by allowing only that segment to treat wholly owned and controlled affiliates as unrelated entities for CIC assignment purposes. The solution to SBC's "coordination" dilemma lies not in giving SBC more CICs than other carriers, but in clarifying to the extent necessary that SBC's affiliates can share CICs. As SBC indicates, it could easily share its CICs among its different affiliates like other companies do. To allow SBC to obtain extra CICs just because of a structural separation scenario would be patently unfair to other integrated companies who, even though they have separate affiliates for providing different services, are still limited to a certain number of CICs. If SBC has additional CIC requirements, it should be able to address that need to the Commission.<sup>23</sup>

The Commission should not adopt the modifications suggested by a few parties, and should adopt the NANC recommendation for the definition of entity. This definition resulted from reasoned analysis and debate that represents industry consensus. It is a workable definition, avoids continued disputes over "control" issues and, as advocated by MCI and many others in their opening comments, is in the public interest.

### **III. CIC ADMINISTRATION GUIDELINES SHOULD NOT PENALIZE COMPANIES THAT GROW THROUGH MERGERS OR ACQUISITION**

As MCI urged in its opening comments, and consistent with the NANC recommendations, CICs obtained through merger and acquisition should not count toward a carrier's CIC

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<sup>21</sup> SBC Comments at 6.

<sup>22</sup> *Id.*

<sup>23</sup> NANC Report at ¶ 24.



assignment allocation.<sup>24</sup> The recommendations recognize that CICs will be more readily available and represent a reasoned, consensus-based decision that the Commission should adopt.

Placing limitations on the total number of CICs available to a merged entity or entities consolidated through acquisition, as suggested by GTE,<sup>25</sup> would penalize merged entities. First, placing limitations on the total number of CICs a merged entity may have would lead to expensive network reconfiguration because CICs would need to be returned to NANPA and network routing would need to be dramatically changed.<sup>26</sup> Additionally, because LECs impose a charge on changing a customer's presubscribed interexchange carrier ("PIC"), IXCs must pay LECs everytime a CIC would need to be returned.<sup>27</sup> Second, forcing a company to return CICs would lead to customer confusion and unnecessary network reliability concerns.<sup>28</sup> When two entities merge, or an entity acquires another, the combined entity typically continues to offer existing services because customers are already familiar with the carrier access codes associated with existing services and network modification would be challenging. Thus, forcing merged entities to return CICs would lead to customer confusion and potential loss of customers, and put networks at avoidable risk as a result of significant modifications that would be needed to change routing translations.

Furthermore, placing limitations on the number of CICs a merged entity may possess will stymie competitive activity with a particularly negative impact on smaller entities.<sup>29</sup> Because of

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<sup>24</sup> MCI Comments at 6.

<sup>25</sup> GTE Comments at 5. GTE proposes to limit the number of CICs to a total of 50. Interestingly, under this proposed limit, the merged WorldCom-GTE would not be required to return any CICs, while a merged WorldCom-MCI would be required to return CICs. GTE's proposal thus appears concerned less with conservation of CICs, and more with attempting to "game" the CIC administration policies.

<sup>26</sup> WorldCom Comments at 10; MCI Comments at 8.

<sup>27</sup> WorldCom Comments at 11. In certain cases where a company has repeated acquisitions or mergers, it may be required to pay LECs for repeated changes of the same customers PIC.

<sup>28</sup> *Id.*

<sup>29</sup> See WorldCom Comments at 9-10.

the extensive cost of reconfiguring a network when a CIC is forced to be returned, entities may be discouraged from entering into otherwise economically beneficial mergers. Additionally, acquisition of smaller entities may be undesirable if the acquired company must return its CICs or the acquiring company would then be limited in the additional CICs it could acquire. This would have the secondary impact of reducing entrepreneurial activity because it would be more difficult for a company to be purchased by another, and entrepreneurs would be less inclined to invest in creative start-up ventures if they were limited in how they may reap the benefits of their efforts.

Similarly, the Commission should affirm that an acquiring company may continue to obtain up to its limit of directly acquirable CICs, and not be limited by the CICs associated with the acquired companies.<sup>30</sup> A restriction on an acquiring company to obtain its permitted number of directly acquirable CICs would negatively limit the acquiring company's plans to deploy new services. While an acquiring company may be able to consolidate CICs from acquired companies and use reclaimed CICs, this would be costly and potentially lead to customer confusion as discussed above. In an environment where CICs are more readily available imposing such artificial restraints would not be good public policy.

BellSouth contends that "it is inequitable that one carrier could have hundreds of CIC codes, acquired through mergers and acquisitions, and still be able to apply for up to six CIC codes, while other carriers could never obtain more than six codes."<sup>31</sup> BellSouth strongly advocated this view throughout the Ad Hoc Working Group efforts, and failed to convince industry of the need to count CICs acquired through mergers against the acquiring entity's six-code limit. The Commission should follow the industry consensus and not be persuaded by

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<sup>30</sup> MCI Comments at 6-8.

<sup>31</sup> BellSouth Comments at 5.

BellSouth's "minority opinion" to the NANC's recommendation to upset the careful balance achieved by an almost unanimous NANC.

The NANC Recommendations represent an equitable solution that treats all parties in a similar fashion. Any entity has the ability to merge or acquire other companies, and therefore is treated equally under the rule. Conversely, a rule limiting the number of directly assignable CICs of an acquiring company or a merged company, as suggested by BellSouth, would unfairly penalize these companies. This is because while everyone else would be permitted to acquire up to six new CICs, merging or acquiring companies would be limited to some number less than that based on CICs that they did not directly acquire. The CICs obtained through mergers or acquisitions would already be in use, and plainly are not equivalent to a newly assigned CIC. Simply put the Commission should not permit carriers that have not developed through mergers or acquisitions, like BellSouth, to use CIC assignment policy to impose costs and gain competitive advantage on their rivals.

#### **IV. FLEXIBLE USE OF CICs SHOULD BE PERMITTED ONLY FOR SWITCHED ACCESS SERVICES.**

MCI fully supports the flexible use of CICs by all parties associated with switched access services, but does not believe that CICs should be indiscriminately used in association with other services. As Worldcom indicated, CICs are the "lifeblood of switched long distance services."<sup>32</sup> Even in an environment where CICs are more readily available, their use should be restricted to services and features associated with switched access so as not to jeopardize switched long distance services. To permit their unlimited use for other types of services may prematurely exhaust the resource, and harm the viability of switched access services. With respect to CIC

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<sup>32</sup> WorldCom Comments at 2.

usage, BellSouth comments that "any implied distinction between uses appropriate for access providers and uses appropriate for access customers should be eliminated."<sup>33</sup> MCI shares this view, provided that the uses are associated with switched access services. The Commission should affirm that CICs may be flexibly used by all parties associated with switched access services, but not for other services.

#### CONCLUSION

For all these reasons, the Commission should swiftly adopt the NANC recommendations and enable industry to promptly and effectively use CIC numbering resources.

Respectfully submitted,

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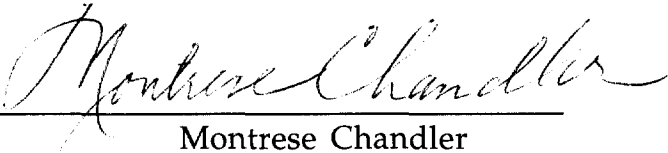
Dated: April 3, 1998

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<sup>33</sup> BellSouth Comments at 6.

## CERTIFICATE OF SERVICE

I, Montrese Chandler, do hereby certify on this 3rd day of April, 1998, that I have served a copy of the foregoing document via first class mail to the parties below:

  
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